

## REMARKS/ARGUMENTS

### Specification

The Examiner has observed:

The abstract of the disclosure is objected to because of the replete use of the term “means” (i.e., lines 1-3). Correction is required. See MPEP § 608.01(b).

The appropriate correction has been made.

### Claim Rejections

#### 35 U.S.C. § 102

Although not involved with a rejection, claims 3 and 10 have been amended in order to correct a typographical error. In the sixth line of each claim, the word “hole” was inadvertently omitted after the word “non-threaded”. From the fourth line it is evident that the word “hole” was omitted. Any necessary antecedent basis can be found in lines 2 through 25 on page 6 of the application.

Concerning claim rejections, the Examiner has said:

Claims 1, 2, 7-9 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hurworth '625. Hurworth discloses a slopeboard mounting device (figures 1-7) having a rigid shaft 60 having a first end (at 24) and a second end (at 64), means for attaching the rigid shaft (via pinned assemblies 88, 90; as seen in figure 3) to a slopeboard frame (28, 30, 22), the means for attachment being located near the first end of the shaft (as seen in figure 2) and a means (90 degree members 56 & 62) for indicating a desired location of a mounting lug 66, the means for locating being located near the second end (connected in the area of reference numeral 64, as seen in figure 2). Also, Hurworth shows the means for attachment (figures 3 and 5) having at least two holes (92, 97, 108) through which bolts can be placed.

Claim 1, upon which all other claims depend, states:

1. A slopeboard mounting device, which comprises:
  - a rigid shaft having a first end and a second end;
  - a means for attachment of said rigid shaft to a slopeboard frame, said means for attachment being located near the first end of said rigid shaft; and
  - a means for indicating the desired location of a mounting lug, said means for indicating being located near the second end of said rigid shaft, and said rigid shaft being selected to have such a shape and size that said means for indicating is maintained at a desired position with respect to the first end of said rigid shaft which is the same position as is desired for a lug pivot point to have with respect to the slopeboard frame.

The Examiner has indicated that he feels the analogous element in Hurworth to the rigid shaft of present claim 1 is vertical side member 60 having as a first end the lower forward corner 24 with the means for attaching the vertical side member 60 to a slopeboard frame composed of the blade assembly 22, hydraulic cylinder 28, and hydraulic cylinder 30 being horizontal pivot pin 88 and swivel connection 90 as seen in figure 3.

As a minor matter Applicant respectfully submits that the hydraulic cylinders 28, 30 do not constitute part of a slopeboard frame as understood in the art. It would not seem either that reinforcing bar 32 is a frame.

Much more significantly, though, the attachment of vertical side member 60 to the blade assembly 22 and the hydraulic cylinders is a swiveling, pivoting, or rotational attachment.

Applicant respectfully submits that the “means for attachment of said rigid shaft to a slopeboard frame” of claim 1, cannot, in view of the specification, reasonably be interpreted to include a swiveling, pivoting, or rotational attachment.

Lines 2 through 18 on page 4 of the application explain:

Use of the present mounting device by a slopeboard installer ensures accurate alignment of slopeboard mounting lug pivot points. This device greatly increases slopeboard performance and safety while reducing installation time.

A first end of the slopeboard mounting device is adapted for attachment to a point marked on the slopeboard frame during the manufacture of such frame. When the slopeboard mounting device is attached securely to the proper point on the slopeboard frame, a means for indicating the desired location, such as a pair of pins, attached to the mounting device near a second end of the mounting device aligns and determines the location for the mounting lug that is designed to attach to the closed end of the fluid-powered cylinder.

Proper use of the slopeboard mounting device eliminates the need for any measuring during the slopeboard installation. Installers of varying skill levels and experience can accurately install slopeboards with uniform success and in a timely manner.

Owners and operators will also benefit by accurate and timely installations. Use of the slopeboard mounting device will decrease installation time and cost. In addition the slopeboard will grade at all the required angles that it was designed to handle and will fold up to a true vertical position while the tractor is performing other operations or being transported on the highway.

Having the attachment to the slopeboard frame be swiveling, pivoting, or rotational defeats the express purpose of the present invention by precluding precise alignment.

Moreover, the Examiner states that he believes the "means for indicating the desired location of a mounting lug" is "90 degree member 56 & 62" and that these show the desired location for mounting lug 66. As evidenced by figure 2 and figure 3 of Hurworth, however, mounting lug 66 is on one end of pivotally mounted supporting arm 48 and not on a portion of the tractor, itself.

Lines 4 through 6 on page 2 clarify:

This invention relates to a device for accurately aligning slopeboard mounting brackets (commonly referred to as "lugs") on a tractor, typically a tractor having a primary push blade for earth or snow moving use.

Lines 20 and 21 on page 2 continue:

Generally, the mounting lugs are attached to the tractor by means of a welding process. The accuracy of the mounting lug positions determines the performance of the slopeboard.

Lines 18 and 19 on page 6 elaborate:

... It is important to note that different makes and models of tractors may require different mounting device designs. ...

And lines 21 and 22 on page 7 explain:

... The cylinder lug base plate assembly **15** is tack welded to the back of the primary push blade **6** and flush with the bottom of the cylinder lug **5**. ...

Mounting lug **66** is not on the tractor, itself, but on an attachment to the slopeboard which facilitates vertical movement of the slopeboard.

Applicant respectfully believes that the preceding demonstrates that claim 1 (and, consequently, claims 2 through 16, which depend on claim 1) is patentably distinct from the device of Hurworth since MPEP § 2131 provides, in pertinent part:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegall Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1239, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis*, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Applicant respectfully requests the Examiner to allow claims 1 through 16.

In view of the preceding arguments, Applicant has not yet taken advantage of the Examiner's courteous suggestion concerning allowable subject matter and the amendment of claims 3 through 6 and 10 through 13.

DATED this 24<sup>th</sup> day of March, 2004.

Respectfully,

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